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Attorneys for Plaintiff
Lifefactory, Inc.

UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

LIFEFACTORY, INC.,

Plaintiff,

v.

LEAPFROG PRODUCT DEVELOPMENT, LLC *DBA*
ELLO PRODUCTS & ZULU ATHLETIC,

Defendant.

Case No.: 3:14-cv-3257

COMPLAINT FOR PATENT INFRINGEMENT

DEMAND FOR JURY TRIAL

Plaintiff Lifefactory, Inc. (“Plaintiff” or “Lifefactory”) complains as follows:

NATURE OF ACTION

1. This action arises under the Patent Laws of the United States, 35 U.S.C. §§100, *et seq.*

JURISDICTION AND VENUE

2. The Court has subject matter jurisdiction of this action under 28 U.S.C. §1331 and §1338(a) in that it arises under the United States Patent Laws.

3. Defendant Leapfrog Product Development, LLC *dba* Ello or Ello Products, as well as *dba* Zulu or Zulu Athletic (“Defendant” or “Leapfrog”) is subject to this Court’s personal jurisdiction because Defendant conducts extensive business in this Judicial District, has committed

1 the acts complained of in this Judicial District, and has caused injury to Plaintiff within this
2 Judicial District by virtue of the acts of patent infringement that are described herein.

3 4. Venue is proper in this Judicial District pursuant to 28 U.S.C. §§1391(b), (c) and
4 1400(b). Defendant is transacting, doing and/or soliciting business and committing acts of patent
5 infringement in this Judicial District and elsewhere in the United States.

6 **THE PARTIES**

7 5. Lifefactory is a California corporation with its principal place of business at
8 3 Harbor Drive, Suite 215, Sausalito, CA 94965. It is a leader in the design, development,
9 manufacture, and sale of reusable drinking glasses, food containers, water bottles, and baby bottles
10 that utilize protective silicone sleeves.

11 6. Defendant is an Illinois corporation with its principal place of business at 159 N.
12 Racine Ave., Suite 3E, Chicago, IL 60607. Defendant has been selling and offering to sell
13 infringing water bottles with protective silicone sleeves within the United States, and within this
14 District, all without consent from Plaintiff. Defendant's infringing products include, but are not
15 necessarily limited to, its Ello and Zulu brand water bottles with a protective sleeve.

16 **FIRST CLAIM FOR RELIEF**

17 **(Infringement of the '133 Patent)**

18 7. Plaintiff incorporates by reference and realleges each of the allegations set forth in
19 the preceding paragraphs.

20 8. On November 12, 2013, U.S. Patent No. 8,579,133 B2 (the '133 Patent), entitled
21 Protective Sleeves for Containers, was issued for the invention of a novel container with a
22 protective sleeve. Plaintiff has owned this patent throughout the period of Defendant's infringing
23 acts and still owns this patent.

24 9. Defendant has infringed and is still infringing the '133 Patent by making, selling,
25 and using water bottles that embody the patented invention, and Defendant will continue to do so
26 unless enjoined by this court.

27 10. Plaintiff has complied with the statutory marking requirements of 35 U.S.C. § 287.
28

PRAYER FOR RELIEF

Therefore, Plaintiff prays for judgment:

1. That Defendant has infringed the '133 Patent;
2. That Plaintiff be awarded damages from patent infringement according to proof;
3. Preliminarily and permanently enjoining Defendant and all others acting in concert with Defendant from making, using, selling, or offering to sell the infringing water bottles or any other product that infringes the '133 Patent without permission or license from Plaintiff;
4. That Defendant be ordered to deliver up to Plaintiff all products infringing the '133 Patent within its ownership, possession, or control for destruction;
5. That the Court declare this to be an exceptional case pursuant to 35 U.S.C. §285, and award reasonable attorney's fees;
6. That Plaintiff be awarded its costs of suit, and pre- and post-judgment interest on any money judgment;
7. For such other relief as the Court deems proper.

Dated: July 18, 2014

Respectfully submitted,

/s/ Brian E. Mitchell

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JURY DEMAND

Plaintiff demands a jury trial on all claims as to which it has a right to a jury.

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